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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,367	11/14/2003	Gary J. Craw	18695-9318-00	1861
23409	7590	03/31/2005	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			HAN, JASON	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,367

Applicant(s)

CRAW ET AL.

Examiner

Jason M. Han

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/3/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-4 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kurth (U.S. Patent 2189008).
2. With regards to Claim 1, Kurth discloses a combination lighting and ventilating apparatus including:
 - A main housing [Figure 1: (1, 6, 11, 14)] having a first aperture [Figure 1: (24)], the aperture defining a ventilating inlet and a lighting outlet;
 - A lamp housing [Figure 1: (4, 17, 18, 19, 20)] recessed within the main housing, the lamp housing having first [Figure 1: (a)] and second apertures [Figure 1: (10)] spaced a distance from one another, the lamp housing having a portion extending outside the main housing;

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- A lamp [Figure 1: (23)] recessed within the lamp housing and the main housing; and
 - A fan [Figure 1: (12)] positioned to draw air into and through the first aperture of the lamp housing, around the lamp, and through the second aperture of the lamp housing.
3. With regards to Claim 2, Kurth discloses a flange [Figure 1: (16)] engageable with the portion of the lamp housing extending outside of the main housing.
 4. With regards to Claim 3, Kurth discloses the lamp housing [Figure 1: (4, 17, 18, 19, 20)] having a circular cross-section, and the flange [Figure 1: (16)] being annular in shape [Claim 1, Page 2, Lines 10-18].
 5. With regards to Claim 4, Kurth discloses the lamp housing including a light baffle [Figure 1: (18, 19, 20)].
 6. With regards to Claim 7, Kurth discloses the lamp housing [Figure 1: (4, 17, 18, 19, 20)] being dimensioned to be received with the first aperture [Figure 1: (24)] of the main housing [Claim 1].
 7. With regards to Claim 8, Kurth discloses the lamp [Figure 1: (23)] having first and second ends, whereby the first and second ends of the lamp being recessed with respect to the surface of the structure [Figure 1: (2)].
 8. With regards to Claim 9, Kurth discloses a motor [Figure 1: (7)] drivably coupled to the fan, whereby the motor is located within the main housing.
 9. With regards to Claim 10, Kurth discloses the lamp having an external surface, whereby the lamp housing and the external surface of the lamp define an air

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passageway [Figure 1: (21)] through which air passes from the first aperture of the lamp housing to the second aperture of the lamp housing into the main housing.

10. Claims 11-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Duhamel et al. (U.S. Patent 3692977).

11. With regards to Claim 11, Duhamel discloses a lighting and ventilating apparatus providing:

- A lamp housing [Figures 1&3: (14, 36)] positioned within a main housing [Figures 1&3: (10)] to define a recessed lamp housing, whereby the lamp housing has a portion [Figure 3: (36)] extending outside of the main housing;
- A lamp [Figures 1&3: (24)] positioned within the lamp housing and main housing to define a recessed lamp, whereby the recessed lamp has an exterior surface exposed to air moved by the apparatus;
- Illumination of a room with the lamp [Column 3, Lines 18-31; Column 7, Lines 39-40];
- A fan [Figure 3: (31)] driven to draw air from the room into the recessed lamp housing and around the exterior surface of the recessed lamp [Column 1, Lines 5-25];
- The air drawn around the lamp into the main housing [Figure 3]; and
- Ventilation of the air from the main housing to a position outside of the room [Column 1, Lines 23-25].

12. With regards to Claim 12, Duhamel discloses driving the fan independently of illuminating the room [Column 1, Lines 21-23; Column 7, Lines 32-42].

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13. With regards to Claim 13, Duhamel discloses mounting the lighting and venting apparatus to a mounting surface [Figures 1&3: (19); Column 4, Lines 48-49], wherein the main housing is recessed with respect to the mounting surface.

14. With regards to Claim 14, Duhamel discloses the lamp [Figures 1&3: (24)] having first and second ends, whereby said lamp is positioned within the housing such that the first and second ends of the lamp are recessed with respect to the mounting surface [Figure 3].

15. With regards to Claim 15, Duhamel discloses providing the main housing with a first aperture [Figure 3: bottom of (10)], and at least a portion of the lamp housing [Figure 3: (36)] positioned within said first aperture.

16. With regards to Claim 16, Duhamel discloses providing the air drawn through the first aperture of the main housing [Figure 3].

17. With regards to Claim 17, Duhamel discloses providing the lamp housing [Figure 3: (36)] with first [Figure 3: bottom of (36)] and second [Figure 3: top of (36)] apertures, and driving the fan to draw air into and through the first aperture of the lamp housing, around the exterior surface of the lamp, and into and through the second aperture of the lamp housing.

18. With regards to Claim 18, Duhamel discloses driving the fan to draw air past walls of the lamp housing having a concave cross-sectional shape taken along an axis of revolution of the lamp housing [Figure 3: walls (36) adjacent to the lamp (24)].

19. With regards to Claim 19, Duhamel discloses coupling the lamp housing within the main housing via a spring [Column 5, Lines 17-21].

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20. With regards to Claim 20, Duhamel discloses driving the fan with a motor [Figure 3: (30)] located within the main housing.

21. Claims 22-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Kurth (U.S. Patent 2189008).

22. With regards to Claim 22, Kurth discloses a lighting and venting apparatus including:

- A main housing [Figure 1: (1, 6, 11, 14)] recessed with respect to a mounting surface [Figure 1: (2)] and having a first aperture [Figure 1: (24)], the first aperture defining a ventilating inlet [Figure 1: (a)] through which air is drawn into the main housing and a lighting outlet;
- A lamp housing [Figure 1: (4, 17, 18, 19, 20)] recessed within the main housing, the lamp housing having a portion that extends beyond the first aperture and outside of the main housing;
- A lamp [Figure 1: (23)] positioned within the lamp housing and recessed with respect to the mounting surface; and
- A fan [Figure 1: (12)] positioned to draw air into the lamp housing, around the lamp, and into the main housing.

23. With regards to Claim 23, Kurth discloses the lamp [Figure 1: (23)] being recessed within the lamp housing and the main housing (inherent if the lamp housing is recessed within the main housing, as mentioned within Independent Claim 22).

24. With regards to Claim 24, Kurth discloses the lamp [Figure 1: (23)] having an exterior surface in fluid communication with air drawn into the lamp housing by the fan.

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25. With regards to Claim 25, Kurth discloses a motor [Figure 1: (7)] positioned within the main housing and drivably coupled to the fan.

26. With regards to Claim 26, Kurth discloses the lamp housing having a first aperture [Figure 1: (19, 20)] and a second aperture [Figure 1: (10)] opposite the first aperture.

27. With regards to Claim 27, Kurth discloses the first and second apertures being axially aligned, whereby the first aperture of the lamp housing [Figure 1: (19, 20)] is smaller than the second aperture [Figure 1: (10)] of the lamp housing, and the lamp and the lamp housing define an air passageway extending between the first and second apertures.

28. With regards to Claim 28, Kurth discloses the fan [Figure 1: (12)] being positioned to draw air into the first aperture of the lamp housing, around the lamp, and into the second aperture of the lamp housing.

29. With regards to Claim 29, Kurth discloses the lamp housing having a generally frusto-conical shape with outwardly-bulging walls [Figure 1: (17, 18, 19, 20)].

30. With regards to Claim 30, Kurth discloses a flange [Figure 1: (16)].

31. With regards to Claim 31, Kurth discloses the lamp housing [Figure 1: (4, 17, 18, 19, 20)] having a circular cross-section, and the flange [Figure 1: (16)] being annular in shape [Claim 1, Page 2, Lines 10-18].

32. Claims 32-39 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Duhamel et al. (U.S. Patent 3692977).

33. With regards to Claim 32, Duhamel discloses an invention providing:

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- An illuminating and venting apparatus [Figures 1&3] recessed within a mounting surface [Figure 1&3: (19); Column 4, Lines 48-49], whereby said apparatus includes a main housing [Figures 1&3: (10)], a lamp housing [Figures 1&3: (14, 36)], a lamp [Figures 1&3: (24)] having first and second ends, and a fan [Figure 3: (31)];
- The lamp housing positioned within the main housing such that a portion of the lamp housing [Figure 3: (36)] extends outside of the main housing;
- The lamp [Figures 1&3: (24)] positioned within the lamp housing such that the first and second ends of the lamp are recessed within the mounting surface [Figures 1&3: (19)];
- Illumination of a room with the lamp [Column 3, Lines 18-31; Column 7, Lines 39-40]; and
- Driving the fan [Figure 3: (31)] to move air into the lamp housing, around the lamp, and into the main housing.

34. With regards to Claim 33, Duhamel discloses the main housing providing a first aperture [Figure 3: bottom of (10)], wherein at least a portion of the lamp housing [Figure 3: (36)] is positioned within the first aperture.

35. With regards to Claim 34, Duhamel provides moving air into a bowl-shaped structure defined by walls of the lamp housing [Figure 3: (36)].

36. With regards to Claim 35, Duhamel provides a flange [Figures 1&3: (14, 36)] positioned adjacent the mounting surface [Figures 1&3: (19)], the flange engages with

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the portion of the lamp housing that extends outside the main housing [as best seen with Figure 3: (36)].

37. With regards to Claim 36, Duhamel discloses the lamp [Figures 1&3: (24)] positioned within the lamp housing lamp housing and the main housing.

38. With regards to Claim 37, Duhamel discloses the lamp [Figure 3: (24)] having an exterior surface, wherein the lamp is positioned within the lamp housing such that the exterior surface is in fluid communication with air drawn into the lamp housing [Figure 3].

39. With regards to Claim 38, Duhamel discloses the housing having a first aperture [Figure 3: bottom of (10)] adjacent the portion of the lamp housing [Figure 3: (36)] that extends outside of the main housing, whereby ventilation for the room is provided via the main housing first aperture.

40. With regards to Claim 39, Duhamel discloses a motor [Figure 3: (30)] positioned within the main housing for driving the fan.

41. With regards to Claim 41, Duhamel discloses the lamp housing including first [Figure 3: bottom of (36)] and second [Figure 3: top of (36)] apertures, wherein driving the fan includes drawing air into and through the first aperture of the lamp housing, around the lamp, and into and through the second aperture of the lamp housing.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

42. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurth (U.S. Patent 2189008) as applied to Claim 1 above.

43. With regards to Claim 5, Kurth discloses the claimed invention as cited above, but does not specifically teach the lamp housing having at least one outwardly-bowed wall presenting a concave wall shape to the lamp in the lamp housing. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the lamp housing into an outwardly-bowed wall presenting a concave wall shape, since it has been held to be within the general skill of a worker that mere change of form or shape of an invention involves only routine skill in the art.

Span-Deck Inc. v. Fab-Con, Inc. (CA 8, 1982) 215USPQ 835. In this case, it would have been obvious to modify the lamp housing with a concave wall shape that is outwardly-bowed in order to produce a desired optical effect. It further would have been advantageous to then apply a reflective surface to the concave wall shape. Such a configuration is commonly seen with reflectors in the art.

44. With regards to Claim 6, Kurth discloses the claimed invention as cited above, but does not specifically teach the fan located outside the main housing. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the fan outside the main housing, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, it is obvious that placing the fan outside the main housing would alter the fluid dynamics [e.g., air] of the system to a desired preference. It is also obvious

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that rearranging the fan outside may allow for easier manufacturing wherein less components have to be installed within said housing.

45. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duhamel et al. (U.S. Patent 3692977) as applied to Claim 11 above.

Duhamel discloses the claimed invention as cited above, but does not specifically teach driving the fan located outside the main housing. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the fan outside the main housing, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, it is obvious that placing the fan outside the main housing would alter the fluid dynamics [e.g., air] of the system to a desire preference. It is also obvious that rearranging the fan outside may allow for easier manufacturing wherein less components have to be installed within said housing.

46. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duhamel et al. (U.S. Patent 3692977) as applied to Claim 32 above.

Duhamel discloses the claimed invention as cited above, but does not specifically teach driving the fan located outside the main housing. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the fan outside the main housing, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, it is obvious that placing the fan outside the main housing would alter the fluid dynamics [e.g., air] of the system to a desire preference. It is also obvious that

rearranging the fan outside may allow for easier manufacturing wherein less components have to be installed within said housing.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art pertinent to the current application, but are not considered exhaustive:

US Patent 3068341 to Ortiz et al;

US Patent 3785271 to Joy;

US Patent 4142227 to Aikens;

US Patent 4630182 to Moroi et al;

US Patent 4681024 to Ivey;

US Patent 5021932 to Ivey;

US Patent 5443625 to Schaffhausen;

US Patent 5664872 to Spearman et al;

US Patent 5934783 to Yoshikawa;

US Patent 6095671 to Hutain;

US Patent 6632006 to Rippel et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (3/7/2005)

A handwritten signature in black ink, appearing to read 'JAW', is positioned above the printed name and title.

**JOHN ANTHONY WARD
PRIMARY EXAMINER**